TESTIMONY OF DOUGLAS LOWENSTEIN, PRESIDENT
INTERACTIVE DIGITAL SOFTWARE ASSOCIATION
BEFORE THE SENATE COMMITTEE ON COMMERCE
MAY 4, 1999

Good morning. My name is Douglas Lowenstein and I am President of the Interactive Digital Software Association[1], the trade body representing U.S. video and computer game software companies that publish games for use in the home. In 1998, the industry generated $5.5 billion in retail software sales. IDSA's 35 members account for 90% of the edutainment and entertainment software sold in the US.

The Committee has asked me to discuss its concerns about the marketing of violence to children. Since the tragedy in Littleton, Colorado, there's been a great deal of discussion, not all of it informed or balanced, about the nature of the American entertainment software industry. Thus, in my testimony, I would like to offer some background on our industry, our markets, and our past and continuing commitment to effective self regulation that will be responsive to the Committee's stated interest and, I hope, add to the understanding of the Committee and others about this fastest growing segment of the US entertainment industry.

The Market Demographics: Adults Predominate

I'd like to start by looking at who plays video and PC games.

Early in this decade, the large majority of PC and video game players were adolescent males. This is no longer the case. The industry has changed dramatically and the perception that its primary audience is children is no longer accurate. In fact, 70% of the most frequent users of PC games are over 18; and 38% of these are over 36. The picture is similar for video game consoles: 57% of the most frequent users are over 18, and 20% are over 36. In other words, the majority of those who most frequently use video and computer games are adults.

There's a misperception that the violent video games that have attracted so much attention these last few weeks are the most popular games on the market. This is also inaccurate. In fact, in 1998, only two of the top 20 best selling video games were rated Mature and only three of the top 20 best selling PC games carried that rating. Instead, the charts are dominated by titles such as the adventure game Myst, sports games like Madden Football and NFL Gameday, racing games like NASCAR '99 and Gran Turismo Racing, board games like

[1] IDSA's members only publish software for the home. The arcade game business is a different sector with its own representatives.

Monopoly and Mahjong, sophisticated flying games like Flight Simulator, hunting and fishing games like Cabela's Big Game Hunter and Trophy Bass Fishing, and character action/adventure games like Zelda: Ocarina of Time, Crash Bandicoot, and Banjo Kazooie. Over the last two years, one of the most popular titles was a series of Barbie games. Of the 20 best selling entertainment software games in 1998, 15 were rated in the Everyone category, three were rated in the Teen category, and two were rated in the Mature category. A complete list is attached to my testimony.

The breadth of popular titles reflects the development of a mass market for games. Just as some books and films are appropriate for different groups, so too now are there video games for people of all ages, tastes, and genders. In fact, the traditional gaming population which sustained the industry in the late 1980's and early 1990s is not primarily fueling the current growth surge. Rather, the emergence of millions of new, mostly adults players buying lower cost and lower tech, casual games like Monopoly are among the hottest trends today.

I offer this background not to suggest that there are no violent games, or that some violent games don't sell. Clearly, some violent games are successful and popular. Instead, I offer the data to put matters in perspective. The perception that the ultra-violent titles like Doom dominate the market is wrong. In fact, these so-called first person shooter games made up only 6% of the total entertainment software market in the United States in 1998.

In sum, the fact is that the vast majority of games made by the U.S. entertainment software industry provide users, above all, with a first rate entertainment experience. Some also increase users' comfort and knowledge about computers and technology, educate them, and enhance problem solving and critical thinking skills. All this better explains their enormous and surging popularity.

Game Ratings Provide Information on Age and Content

The fact that these violent games represent a small percentage of the total market does not mean they are not a legitimate concern. There is no question that many of them are not intended for children. Thus, let me address what the industry has done to keep these games out of the hands of those for whom they're not rated as appropriate.

Five years ago, the IDSA created a rating body called the Entertainment Software Rating Board (ESRB) to rate video and PC games. We hired Dr. Arthur Pober, an educational psychologist, former head of the Children's Advertising Review Unit of the Council of Better Business Bureau and Principal of the Hunter College Elementary School in New York City, to design and implement a system which would provide credible, reliable, and easily

understood information about games to consumers. Dr. Pober built the system after significant research and consultation with consumers, psychologists, and child advocates. Among those consulted were such experts as Parker Page, Ph.D., President, Children's Television Resource and Education Center, Lewis Lipsitt, Emeritus Professor of Psychology, Medical Science, and Human Development, and Founding Director, Child Study Center, Department of Psychology at Brown University, Karen Jaffe, Executive Director, KIDSNET, and Jeffrey Goldstein, Ph.D, University of Utrecht. All these experts, along with Mary Ellen Fise, Product Safety Director, Consumer Federation of America, Jeffrey Cole, Ph.D., Director, Center for Communication Policy at UCLA, Rosemarie Truglio, Ph.D., Director of Sesame Street Research, Children's Television Workshop, and Vincent Ferandino, CEO and Executive Director, New England Association of Schools and Colleges, serve on the ESRB's Academic Advisory Board which meets periodically to discuss the efficacy of the rating system.

ESRB ratings are based on prior review of actual game content by panels of demographically diverse individuals. Three persons review each game and generate a consensus rating in two areas: age appropriateness and, if necessary, content. There are five rating categories: Early Childhood, Everyone, Teen, Mature, and Adults Only. To date, the ESRB has rated over 5,000 products: 71% have been rated in the Everyone category; 19% in the Teen category; and only 7% in the Mature category. In addition, many games also carry one or more of 20 content descriptors – simple but clear phrases that give information on the content which influenced the rating. These include mild animated violence, realistic violence, animated blood and gore, strong language, use of tobacco and alcohol, suggestive themes, to name a few. All of the first person shooter games containing the intense type of violence associated with Doom carry an M rating as well as several content descriptors flagging their violent content, such as animated violence and animated blood and gore. A complete description of the rating service is attached as part of the ESRB's Guide to Interactive Entertainment brochure.

To the best of my knowledge, ESRB is the only entertainment rating system in the United States that gives such complete and understandable information. Indeed, your colleague, Sen. Joseph Lieberman (D-CT), while objecting strenuously to the content of some games, has called this rating system the best entertainment rating system in the country.

Over a year ago, the ESRB expanded its activities with the launch of the ESRBi service to rate interactive websites for entertainment software companies. This service gives a standard ESRB rating to sites where the content is static and unchanging, and an ESRB-Interactive rating to sites where the users can change or influence a site's content. The latter symbol advises consumers that the site's content is ever changing and thus potentially could be inappropriate at given times for certain users. ESRBi is compatible with the Platform for Internet

Content (PICs). This means that parents may set their browsers to screen out sites carrying certain ratings to protect their children.

Commitment to Ratings Implementation

Ratings, of course, do not work if parents either don't know about them or don't use them. To that end, the ESRB has made significant efforts to publicize its ratings. In addition to a web site, esrb.org, and a toll free phone number, 1-800-771-ESRB, it has distributed five million copies of its brochure A Parents Guide to Buying Video Games. These brochures are carried by such national retailers as Wal-Mart, Toys 'R Us, Blockbuster, Funco, and Best Buy and smaller retailers in 33 states. And IDSA has supported efforts by retailers over the years to make the ESRB system as effective as possible. In its early days, we encouraged retailers to carry rated software and to display ratings information prominently. This was a major factor resulting in quick industry use of the rating system. In fact, 100% of all video games are rated by the ESRB and about 80% of all PC games are ESRB-rated, with the majority of non-rated games in the early childhood category. Most recently, last October, we wrote to major retailers asking that they publicize and enforce the ratings.

I understand that there is concern that ratings are not adequate to prevent games from being bought by persons for whom they are not rated as appropriate. But it's important to understand that unlike many other entertainment products, such as books, films, or CDs, the typical newly released PC or video game cost $40-60, considerably more than the average adolescent carries around. Thus, it's not surprising that nine out of every ten games is actually purchased by someone over 18 – that is, the actual sales transaction involves an adult. This is significant because it suggests that if we can educate adult consumers, these ratings can be a very effective tool to empower parents to regulate what they bring into the home.

This is a critical point. I am a parent, as many of you are. It's a 24 hour a day job. We must monitor the books they read, the kids they hang out with, the toys they play with, their schoolwork, their peer relationships, their self esteem and the video and PC games they play. But I have a sense in talking to many parents that when it comes to interactive entertainment, the technology is intimidating. They perceive the PC, the game console, and the Internet as something their child understands better. So they do not bring to it the same sense of vigilance that they bring to other more traditional forms of entertainment. They must. Is the game you buy, or the one you're asked to buy, rated as appropriate for your child? Once the game is at home, take a look at it, watch your child play it to see if it meets your tastes, and monitor the time they spend playing it. The on/off switches on computers and game consoles should be used.

Advertising and Marketing Regulation and Enforcement

When the ESRB was established, we recognized that we needed a companion advertising code to ensure that ratings were properly displayed. Thus, the IDSA Advertising Code of Conduct was born in September, 1994. All companies that receive ESRB ratings are required to comply with the ad code. Among other key provisions, the code requires that ratings information be placed on the front and back of the box so it can be seen by consumers. The Code also requires use of ratings in television and print advertising, as well as certain marketing materials, and on web sites promoting rated product. In addition, the code prohibits companies from targeting kids for whom a game is not rated as appropriate in their marketing campaigns. Thus, an advertisement for a violent game in the Barbie Magazine would violate the code. IDSA invests considerable resources in working with companies to ensure compliance with the code. We also periodically update it to take account of new industry marketing practices. Thus, we recently added a provision requiring demo disks for rated games to carry ESRB ratings.

An additional check on inappropriate targeting is the presence of the Children's Advertising Review Unit of the Better Business Bureau. CARU reviews and evaluates child directed advertising in all media. When an ad is found to violate CARU's guidelines, which include the directive that "portrayals of violence and presentations that could frighten or provoke anxiety in children should be avoided," CARU seeks changes through voluntary cooperation of advertisers.

Internet Challenges

Another area of concern is the marketing and delivery of games via the Internet. There's a legitimate concern that if games are widely available over the Internet, the efficacy of ratings will be compromised.

At this time, very few members of the IDSA, or other companies in the entertainment software business, make full games available for direct download. Moreover, if they do so, they would require consumers to provide a credit card to pay for the product, making it unlikely that kids are able to acquire games in this way without parental permission.

Demos – samples of games to stimulate demand – are, as noted, a new form of marketing. Under the ad code, if the game has been rated, the demo should carry the rating as well. IDSA approved funding in March to commit new resources to surf sites seeking to ensure that companies are placing ratings on appropriate web pages. Separately, ESRB is working to persuade companies to submit entire sites for rating. However, unlike the retail environment where retailers helped create a de facto mandatory rating regime, there is no parallel force on the Internet.

Let me cite another example of our effort to control access to material on the Internet. Late last year, IDSA issued voluntary Guidelines on Privacy and Fair Information Practices designed to address, among other things, communication by our members with kids. We recently testified on the details of the Guidelines and the implementation challenges before the Senate Judiciary Committee. But one area is especially relevant to this discussion. Our Code incorporates the requirements of federal law requiring companies obtaining personal information from kids 12 and under to get parental consent prior to collecting that information. In addition, we go beyond the requirements of federal law, which only address kids 12 and under, to require companies who adopt the guidelines to give parental notice when collecting personal information from kids between 13-17.

Under these guidelines, it's likely that if a child accesses a web site to obtain a game or demo version of a product, the company would collect personal information, thus triggering the parental notice and, depending on age, parental consent provisions. This privacy policy should, in some cases, regulate access by kids to inappropriate material via the on line world.

I understand the concern about ratings being sidestepped through Internet marketing. In truth, though, a far more serious way the ratings are sidestepped is through the availability of massive numbers of counterfeit versions of games over the Internet. Even the Internet illiterate can enter a few words into a search engine and, within seconds, be directed to dozens of sites offering pirate games, including many of those commented upon by Members of this Committee. In many cases, these sites are closely associated with pornography sites that offer games for free download as a way of attracting customers to the more lucrative porn areas of the site. We have launched active programs to shut down these pirate sites but I will tell you it's a very arduous and costly effort which will take years to succeed and requires considerable cooperation from Congress and law enforcement.

State of Academic Research

In the last two weeks, much has been written about the possible role of video games in the school shootings and youth violence generally. I am not a behavioral psychologist. But there has been considerable research in the academic community since the 1980's on video games. In 1995, the Government of Australia commissioned Kevin Durkin, Ph.D., Associate Professor of Psychology at the University of Western Australia to review all the research on video games, pro and con, as part of its consideration of whether to regulate them. Durkin reviewed dozens of studies on the issue of video games and aggression, including those which suggest a link and those which do not. His conclusion follows in full:

> "A small number of experimental studies have been reported. Either no or minimal effects have been obtained. Some very tentative evidence indicates that aggressive play may be cathartic (promote the release of aggressive tensions) for some individuals, though this work is open to methodological criticisms. Overall, evidence is limited, but so far does not lend strong support to the claims that computer game play promotes aggressive behavior."

I think most objective researchers would agree that more work in this area would be helpful. But I think most would also agree that bold statements that claim as fact that video games cause violent behavior are, at best, overstated and, at worst, at odds with the prevailing academic literature. Finally, I would caution you to review any research or claims in this area carefully. Opinions not backed up by empirical, peer reviewed research involving video game players should not be a basis for policy. Moreover, examine the research carefully. Methodology does matter, sample size matters, and accurate interpretation of the data matters.

Meeting Industry's Responsibility

In a sense, though, the issue of what the research shows is largely academic. While millions of people who play the ultra-violent games are adults, we would agree that some games are not appropriate for children. But we also believe that parents are the first and last decision makers on what games they will permit their kids to play. I would guess that some of the staff and audience in this room play some violent games, and even permit their kids to do so without concern. Those decisions are based, one hopes, on knowledge of the game's content and, more important, knowledge about their child.

Five years ago, we as an industry voluntarily instituted the ESRB rating system described above. But our responsibility does not end there. The job of ensuring that the rating system is effective is ongoing. We continually review it and our advertising code. Both have been changed several times over the years to try to keep pace with technology and to fulfill the objectives of providing reliable and credible information to permit consumers to make informed purchasing decisions.

I'd like to tell you about some additional efforts we're undertaking now.

First, we will take new steps to publicize and increase the visibility of the ESRB ratings, increase parent awareness of them, and encourage their use. The IDSA Board will meet shortly to evaluate options to accomplish this goal, including the possibility of paid media, public service announcements, retailer outreach, and outreach with parent and teacher groups to explore whether there are ways to

get ESRB materials into parent's hands through the schools. We welcome your help in this endeavor.

Second, IDSA will explore ways to encourage retailers to enforce the ratings. While our industry has the ability to rate the product, we cannot require retailers to enforce them. Each retailer must adopt its own policies. We understand this is a difficult issue for them. Retailers display products differently and handle checkout differently. Our goal is to work cooperatively with retailers to put in place systems, directly or indirectly, that limit the ability of persons under 17 to buy Mature rated products, and better educate their consumers and employees on the use of the rating system. In this regard, I'm pleased that the trade publication Games Business, which is distributed to 60,000 retailers around the country, will include a major insert in its mid-May edition on ESRB ratings.

Third, we will review our advertising code of conduct to see what steps we can take to moderate the promotion of violence in ads. Some ads do go too far and this is an area for renewed focus. I am pleased that the magazine GamePro, a leading publication for game enthusiasts, has recently written major advertisers asking them to communicate to their ad agencies, marketing departments, and PR representatives to "pursue higher creative standards" in promoting games and advising them that it is tightening its own standards regarding graphic violence and will reject such ads.

A focus on better education, better retail enforcement, and advertising restraint will, I believe, continue to allow us to strike the proper balance between effective self regulation and protecting freedom of expression guaranteed by the Constitution.

Conclusion

Let me end on a personal note: I don't like many of the extremely violent games. I do not buy them for my kids. But, as I noted earlier, tens of millions of people of all ages play video games of all kinds; many also play the ultra-violent games covered in this hearing, and they are perfectly capable of separating fantasy from reality. They know that the difference between fighting to save the world from animated aliens with a controller in the living room and carrying out premeditated murder at the schoolyard with real guns.

Something else was terribly amiss with these boys in Colorado. I do not have a simple explanation for what happened there. But video games did not teach them to become Nazis, to hate, to single out athletes, and video games did not isolate them from their peers. As an industry, we have a track record of making serious efforts to address concerns about a minority of game content. We will continue to try and meet that obligation.

Recently, the Journal of the American Medical Association ran an article on protecting adolescents from harm. It sought to identify risk and protective factors at the family, school, and individual levels as they relate to health and morbidity, emotional health, violence, substance use, and sexuality. It found that parent-family connectedness and school connectedness were protective against every health risk behavior except pregnancy. I hope in the weeks ahead the dialogue we've started today can move beyond targeting video games and focus on ways we can make our kids feel loved, valued, and connected to the anchors of home and friends.

Thank you.